

January 30, 1998

By Hand

Mary L. Cottrell, Secretary
Department of Telecommunications & Energy
Commonwealth of Massachusetts
100 Cambridge Street, 12th Floor
Boston, MA 02202

Re: DTE 96-100: Investigation by the Department of Telecommunications and Energy upon its Own Motion Commencing a Notice of Inquiry/Rulemaking, Pursuant to 220 CMR §§2.00 et seq., Establishing the Procedures to Be Followed in Electric Industry Restructuring by Electric Companies Subject to G.L. c. 164

Dear Secretary Cottrell:

Enclosed please find an original and twelve copies of the Comments of Fitchburg Gas and Electric Light Company to the request by the Department for Comments on its Proposed Rules for a Restructured Electric Industry in Docket D.P.U./D.T.E. 96-100. Also enclosed is a diskette containing this filing.

Thank you for your attention to this matter.

Very truly yours,

Patricia M. French

PMF/sjb

Enclosures

(BS2 45843)

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF PUBLIC UTILITIES

Investigation by the Department of Telecommunications)
and Energy upon its Own Motion Commencing a Notice)
of Inquiry/Rulemaking, Pursuant to 220 CMR §§2.00 et) D.P.U./D.T.E. 96-100
seq., Establishing the Procedures to Be Followed in)
Electric Industry Restructuring by Electric Companies)
Subject to G.L. c. 164)

**COMMENTS OF
FITCHBURG GAS AND ELECTRIC LIGHT COMPANY
ON THE DEPARTMENT'S PROPOSED RULES FOR
A RESTRUCTURED ELECTRIC INDUSTRY**

In August, 1996, the Department of Public Utilities (now, the Department of Telecommunications & Energy) ("DTE" or "Department") opened the initial proceeding in investigating the rules to be established for restructuring the electric industry. That proceeding culminated on December 31, 1996, with the Department's Model Rules and Legislative Proposal (the "Model Rules"). On November 19, 1997, the General Court of the Commonwealth enacted *the Act Relative to Restructuring the Electric Utility Industry in the Commonwealth, Regulating the Provision of Electricity and Other Services, and Promoting Enhanced Consumer Protections Therein*, Chapter 164 of the Acts of 1997 (the "Act"), which was signed into law on November 25, 1997. On January 16, 1998, the Department issued new rules to govern the restructured electric industry in the Commonwealth ("the Final Rules"). In its Order noticing the newly proposed rules, the Department stated its intent to modify the 1996 Rules "consistent with Legislative direction." Notice, D.T.E. 96-100 at 2 (1998).

Fitchburg Gas and Electric Light Company ("FG&E") supports the Joint Filing made this date by the Massachusetts electric companies, but also believes that additional comments which are specific to its interests will further the Department's understanding of the impact of the Final Rules on FG&E. It is in this spirit that FG&E offers these few individual comments and suggested changes to the Final Rules proposed on January 16, 1998.

As a general matter, FG&E believes the Department should ensure that the Final Rules support the following elements: 1) the rules should incorporate, where necessary, the plain

language of the statute; 2) the rules should recognize the intention of the legislation to have the Department address “substantial compliance” with the law; 3) the rules should recognize the statutory right of companies to functionally separate, rather than conduct a full corporate separation; and 4) the rules should recognize the authority of the Department to grant a waiver, exemption, or provision of alternative process for good cause shown, where such action is consistent with both the public interest and the governing statute, and would result in substantial compliance with c. 164.

The Act includes a number of the definitions originally set out in the Department’s Model Rules, and in turn, these definitions from the Act have been incorporated into the Final Rules. The Final Rules also incorporate definitions which first appear in the Act, and as well as certain definitions not stated in the Act, such as “Public Aggregator,” “Interconnection Standards,” and “Load-Serving Entity.” FG&E recognizes that these additions are necessary to provide greater clarity and specificity to the Department’s Final Rules. Where the Act is explicit in its definition of a term, however, FG&E believes that the Final Rules should include that same definition, in order to reflect most precisely the intent of the legislature. For example, the definition of Generation Service is different from the definition included in the Act. See, Section 11.02: General Definitions. The Act states that generation service is the “provision” of generation and related services, but the proposed rule defines this term as the “sale” of generation and related services. In addition, the definition for Reimbursable Transition Cost Amount appears to demonstrate a preference for securitization; although the statute does not require each company to securitize. Because the Act does not require that the Department’s approval of transition costs be linked to a Financing Order, the Final Rules should not impose such a requirement. Finally, the Act defines Residual Value only using “electric company assets;” FG&E believes “electric company or other assets” is more appropriate.

In sum, the Department should, where possible, incorporate the Definitions from the Act in its Final Rules.

The language of the proposed rules (Section 11.03: Transition Cost Recovery) suggests that a Plan filed by a Distribution Company may be insufficient, alone, to obtain approval for the recovery of transition costs. The Rules appear to require that a filing be made which demonstrates that (a) a plan was filed; (b) the Company has a plan to divest itself; (c) that the plan provides for Standard Offer and rate reduction; (d) transition costs are identified (itemized as in M.G.L. c. 164, sec. 1G(b)(1) and sec. 1G(b)(2)); (e) mitigation has been undertaken “to the maximum extent possible.”

While the language above mimics the statute, FG&E believes that the statute does not prohibit the Department from considering a distribution company’s transition costs

contemporaneously with the Department's review of a company's restructuring plan. This approach would allow for efficient use of the Department's resources and reduce the duplication of administrative processes.

In general, Section 11.04: Distribution Company Requirements establishes the rules for distribution service, low income service, renewables, energy efficiency, standard offer service, default service, billing and termination of service for non-payment. However, the Final Rules also require all distribution companies to file "a transmission service tariff for each rate class" "for Department *approval*" (emphasis added). FG&E believes that the rule should be changed to avoid duplication while ensuring that the Department maintains the appropriate level of oversight and customers can easily obtain pricing information for all delivery sources. FG&E further believes that the approach proposed in its Restructuring Plan will accomplish these goals. By including transmission charges in each of the Delivery Service Schedules and including additional schedules for internal and external transmission cost/revenue reconciliation, FG&E's approach affords the Department with oversight of transmission service pricing, provides customers with a single place to find all delivery service prices and avoids duplicate tariff development, filing and maintenance efforts. FG&E would not object to a requirement that utilities provide the Department with all transmission filings made to FERC.

The Final Rules regarding the farm discount also mimic the statute. However, the Final Rules state that the discount is applicable to customers which "meet the eligibility requirements," but does not establish any such requirements. FG&E believes that the statute, in identifying the "business" of farming under c. 128, is vague and that the Department should establish uniform eligibility requirements. Such eligibility requirements could be developed as the part of a collaborative process or workshop. Regardless, FG&E believes any such eligibility requirements must be consistent and uniform for all Distribution Companies in the Commonwealth.

FG&E appreciates the opportunity to provide comments.